

PATENT APPLICATION

042390.P9219

Request for extension of time under 37 C.F.R. §1.136

Assignee herewith petitions the Director of the United States Patent and Trademark Office to extend the time for response to the Office Action dated February 12, 2003 for 3 month(s) from May 12, 2003 to August 12, 2003.

Please charge Deposit Account #02-2666 in the amount of:

_____	(\$110.00 for a one month extension)
_____	(\$410.00 for a two month extension)
<u> X </u>	(\$930.00 for a three month extension)
_____	(\$1,450.00 for a four month extension)

to cover the cost of the extension.

Remarks

Reexamination and reconsideration of this application is requested. Claims 1-20 remain in the application. No new claims have been added or canceled.

The Office Action requested a new title. However, Applicant is not certain as to what changes are being requested of the title. Applicant believes the current title is indicative of the invention even though the title is not to be a limitation upon the scope of the claims. Applicant respectfully requests the Examiner provide a suggested title.

Applicants believe there is no charge for this response because no new claims have been added.

Response to the 35 U.S.C. §112, Second Paragraph, Rejection

The Office Action rejects claim 5 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject

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matter which Applicants regard as the invention. In particular, the Office Action requested clarification as to what "transmit a transmitted message" means.

Although the scope of Applicant's invention is not limited in this respect, in the embodiment described on page 7, lines 15-20, a message or information that is to be transmitted is referred to as a "transmitted message." With reference to this particular embodiment, Applicant's specification states:

"In addition, memory 75 may be used to store data indicating what information is to be retrieved or transmitted by modem 75 and stored in memory 75. For example, memory 75 may programmed by a user to identify which emails are to be downloaded or transmitted, what data is to be downloaded from the network (e.g., the names of files), or what data is to be downloaded from the internet (e.g., stock data), although the scope of the present invention is not limited in this respect."

Response to the 35 U.S.C. §102(b) Rejection

The Office Action also rejects claims 8-9, 13-14 and 17 under 35 U.S.C. §102(b) as being anticipated by Isikoff (US 5,748,084). Applicant respectfully traverses this rejection in view of the remarks that follow.

As is well-established, in order to successfully assert a *prima facie* case of anticipation, the Office Action must provide a single prior art document that includes every element and limitation of the claim or claims being rejected. Therefore, if even one element or limitation is missing from the cited document, the Office Action has not succeeded in making a *prima facie* case.

Applicant begins with claim 8. Claim 8 specifically recites:

"8. A method of retrieving data with a portable computing device having a modem, a first processor, and a second processor, the method comprising:

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deactivating the first processor of the portable computing device;
activating the second processor so that the modem receives the data; and
storing the data."

It is respectfully asserted that, as one example, Isikoff fails to meet either expressly or inherently the limitation that a portable computing device has a first processor and a second processor.

According to the Office Action, Isikoff teaches a microprocessor at column 3, lines 62-65. However, Isikoff only makes reference to one processor, namely microprocessor 30. More significantly, Applicant would like to kindly point out that Isikoff does not teach or suggest a portable computing device having a first processor and a second processor. Further, the Office Action not provide any explanation as to how Isikoff teaches a second processor. Thus, Applicant respectfully submits that a prima facie showing has not and cannot be made. Accordingly, claim 1, and the corresponding dependent claims, are believed not to be anticipated by Isikoff.

Response to the 35 U.S.C. §103(a) Rejection

The Office Action also rejects claims 1-7, 10-12, and 16 under 35 U.S.C. §103(a) as being unpatentable over Isikoff. Applicant respectfully traverses this rejection in view of the remarks that follow.

1) THE INDEPENDENT CLAIMS INCLUDE LIMITATIONS THAT ARE NOT TAUGHT OR SUGGESTED BY THE COMBINATION OF KURIBAYASHI AND PAIN ET AL.

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It is well established that obviousness requires a teaching or a suggestion by the relied upon prior art of all the elements of a claim (M.P.E.P. §2142). Applicants respectfully submit that Isikoff does not meet the requirements of an obvious rejection in that Isikoff neither teaches nor suggests a modem adapted to store at least a portion of a communication in the non-volatile memory when the processor is inactive.

Isikoff makes clear that any activity involving data modem 20 also involves microprocessor 30. Thus, Isikoff cannot teach or suggest storing a communication with a modem when microprocessor 30 is inactive.

In particular, Isikoff states

"Once data begins to be received, the microprocessor temporarily stores the data in memory and alerts the host computer: (column 5, lines 46-48)

"This information is passed onto the microprocessor which determines what actions need to be taken within the beacon and what signals need to be sent the host computer." (column 5, lines 29-32)

"For an incoming voice call the microprocessor alerts the host computer via an interrupt or other hardware notification rout." (column 5, lines 35-36)

"Another type of incoming data is that of CDPD cellular packets. Such packets may contain e-mail, pages, etc. and might also contain low and high level control codes. These packets are examined by the microprocessor and passed on to the user interface software." (column 6, lines 55-59, emphasis added)

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"The microprocessor also arbitrates and controls all outgoing calls. Outgoing calls from the beacon may be initiated by the user in a conventional manner through the user interface software, for example by entering an e-mail and clicking "SEND", or they may be initiated in the high-level user interface software or the low-level security software automatically. When the microprocessor receives data from the computer to transmit, it determines the most appropriate method of transmission and initiates a call." (column 7, lines 16-18, emphasis added)

Isikoff makes clear that the microprocessor must be active and involved if data modem 20 is to store data. Thus, Isikoff not only fails to teach or suggest at least one feature of Applicant's claim 1, it also teaches away from Applicant's invention.

Consequently, Isikoff cannot make Applicant's claims 1-7, 10-12, or 16 obvious.

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Conclusion

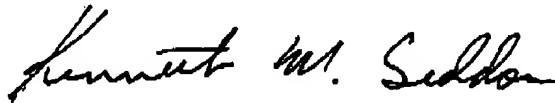
The foregoing is submitted as a full and complete response to the Office Action mailed February 12 , 2003, and it is submitted that claims 1-20 are in condition for allowance. Reconsideration of the rejection is requested. Allowance of claims 1-20 is earnestly solicited.

Should it be determined that an additional fee is due under 37 CFR §§1.6 or 1.17, or any excess fee has been received, please charge that fee or credit the amount of overcharge to deposit account #02-2666.

If the Examiner believes that there are any informalities which can be corrected by an Examiner's amendment, a telephone call to the undersigned at (480) 554-9732 is respectfully solicited.

Respectfully submitted,

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Dated: 7-24-03

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